

BOARD MEETING DATE: December 3, 2021

AGENDA NO. 11

PROPOSAL: Comply with AB 361 Requirements to Allow South Coast AQMD Board and South Coast AQMD Brown Act Committees to Continue to Meet Remotely

SYNOPSIS: This action is to adopt the attached Resolution finding that the Board: 1) has reconsidered the circumstances of the state of emergency; and 2) State or local officials continue to impose or recommend measures to promote social distancing. See Cal. Gov't Code Section 54953(e)(3).

COMMITTEE: No Committee Review

RECOMMENDED ACTIONS:

Adopt the attached Resolution finding that the Board:

1. Has reconsidered the circumstances of the state of emergency; and
2. State or local officials continue to impose or recommend measures to promote social distancing.

Wayne Nastri
Executive Officer

BTG:lal

Background

Governor Newsom previously issued Executive Orders (EOs) N-29-20 and N-35-2 in March 2020, as a response to the public health crisis brought about by the COVID-19 pandemic. These EOs authorized local legislative bodies subject to the Ralph M. Brown Act to conduct meetings entirely via telephonic or other electronic means in lieu of requiring the physical presence of Board members or members of the public. On June 11, 2021 the Governor issued EO N-08-21, which continued suspension of the Brown Act's teleconferencing requirements, without requiring that members of the public be given the right to access all teleconference locations, through September 30, 2021, in anticipation of the State's proposed re-opening.

Assembly Bill 361, signed into law by Governor Newsom on September 16, 2021, amends the Brown Act and will stay in effect from October 1, 2021 through January 1, 2024. In part, AB 361 amends subparagraph (e) of Section 54953 of the California Government Code to state that local agencies may continue to use teleconferencing without complying with the teleconferencing requirements of the Brown Act in any of the following circumstances:

- A. When the legislative body holds a meeting during a proclaimed state of emergency and state or local officials have imposed or recommended measures to propose social distancing;
- B. When the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- C. When the legislative body holds a meeting during a proclaimed state of emergency and has already determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

In the event of an ongoing proclaimed state of emergency, or where state or local officials have imposed or recommended measures to promote social distancing, in order to continue to utilize the teleconferencing measures set forth above, a legislative body must, no later than 30 days after teleconferencing for the first time pursuant to Government Code Section 54953(e)(1), and every 30 days thereafter, make the following findings by majority vote:

- A. The legislative body has reconsidered the circumstances of the state of emergency.
- B. Any of the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

See Cal. Gov't Code Section 54953(e)(1). Governor Newsom first declared a statewide emergency resulting from the COVID-19 pandemic on March 4, 2020. Furthermore, although the State no longer requires physical distancing, both South Coast AQMD and the Los Angeles County Department of Public Health, have recommended proposed social distancing measures.

Proposal

This action is to address the requirements of AB 361 to allow South Coast AQMD

Board and South AQMD Brown Act Committees to continue to meet remotely. The recommended action is to adopt the attached Resolution finding that the Board: 1) has reconsidered the circumstances of the state of emergency; and 2) State or local officials continue to impose or recommend measures to promote social distancing. See Cal. Gov't Code Section 54953(e)(3).

Resource Impacts

No fiscal impact.

Attachment

Resolution

RESOLUTION 21 - _____

1 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH COAST AIR**
2 **QUALITY MANAGEMENT DISTRICT RECOGNIZING THE PROCLAMATION OF A STATE**
3 **OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020 AND THAT THE COUNTY**
4 **OF LOS ANGELES CONTINUES TO RECOMMEND MEASURES TO PROMOTE SOCIAL**
5 **DISTANCING; AND AUTHORIZING FULLY OR PARTIALLY REMOTE TELECONFERENCE**
6 **MEETINGS OF THE GOVERNING BOARD OF THE SOUTH COAST AIR QUALITY**
7 **MANAGEMENT DISTRICT, AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
8 **COMMITTEES SUBJECT TO THE BROWN ACT, FOR THE PERIOD OF DECEMBER 3,**
9 **2021 THROUGH JANUARY 2, 2022 PURSUANT TO PROVISIONS OF THE BROWN ACT.**

10 **WHEREAS**, the Governing Board of the South Coast Air Quality Management District (South
11 Coast AQMD) is committed to preserving and nurturing public access and participation in all meetings
12 subject to the provisions of the Ralph M. Brown Act (Cal. Gov. Code §§54950-54963, hereafter Brown
13 Act); and

14 **WHEREAS**, pursuant to the provisions of the Brown Act, all meetings of legislative bodies of the
15 South Coast AQMD, which include the South Coast AQMD Governing Board, all Brown Act standing
16 committees ultimately reporting to the South Coast AQMD Governing Board, and all advisory committees
17 and groups subject to the Brown Act, (collectively, hereinafter, “legislative bodies”), are required to be
18 open and public so that any member of the public may attend, participate, and watch the South Coast
19 AQMD’s legislative bodies conduct their business; and

20 **WHEREAS**, the Brown Act, Government Code §54953(e), makes provisions for remote
21 teleconferencing participation in meetings by members of a legislative body, without compliance with the
22 requirements of Government Code §54953(b)(3), subject to the existence of certain conditions; and

23 **WHEREAS**, a required condition is that a state of emergency has been declared by the Governor
24 pursuant to Government Code §8625, proclaiming the existence of conditions of disaster or of extreme peril
25 to the safety of persons and property within the state caused by conditions as described in Government Code
26 §8558; and

27 **WHEREAS**, on March 4, 2020 the Governor proclaimed a State of Emergency to exist in California
28 as a result of the threat of the novel coronavirus (COVID-19); and

RESOLUTION 21 - _____

1 **WHEREAS**, the jurisdiction of the South Coast AQMD includes portions of the Counties of Los
2 Angeles, Orange, Riverside, and San Bernardino areas in the Counties of Riverside and San Bernardino as
3 set forth in Health & Safety Code §40410 and South Coast AQMD Rule 103; and

4 **WHEREAS**, the South Coast AQMD headquarters is located in the County of Los Angeles; and

5 **WHEREAS**, it is further required that state or local officials have imposed or recommended
6 measures to promote social distancing, or, the legislative body meeting would present imminent risks to the
7 health and safety of attendees; and

8 **WHEREAS**, local and California public authorities still recommend measures promoting social
9 distancing and/or mask wearing indoors and in public gatherings as well as recommending compliance with
10 the latest advice issued by the Center for Disease Control (CDC) regarding same; and

11 **WHEREAS**, on September 28, 2021, the County of Los Angeles Department of Public Health
12 issued further guidance promoting such measures; and

13 **WHEREAS**, on June 23 and August 10, 2021, the South Coast AQMD issued further guidance
14 promoting such measures; and

15 **WHEREAS**, the spread of the Delta Variant of COVID-19 poses a continued risk to the health and
16 safety of members of the South Coast AQMD legislative bodies, South Coast AQMD staff, as well as to
17 any members of the general public who attend such meetings in that unvaccinated or partially vaccinated
18 persons are at high risk of contracting this variant and even fully vaccinated persons can contract and
19 potentially unknowingly spread the variant; and

20 **WHEREAS**, the Governing Board of the South Coast AQMD does hereby find that the legislative
21 bodies of the South Coast AQMD shall conduct their meetings without compliance with paragraph (3) of
22 subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and
23 that such legislative bodies shall comply with the requirements to provide the public with access to the
24 meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

25 **WHEREAS**, the legislative bodies of the South Coast AQMD will continue to ensure access to
26 their meetings by making them available telephonically and via virtual access for both members of the
27 legislative bodies and the general public; and
28

RESOLUTION 21 - _____

1 **WHEREAS**, notice of meetings along with information regarding all methods which may be used
2 for public participation in such meetings will continue to be published in the newspaper, posted at the South
3 Coast AQMD's headquarters, posted at any teleconference locations which are officially noticed on the
4 agenda, posted on the South Coast AQMD's website, provided to anyone who requests such information,
5 and clearly printed on any agendas produced for such meetings.

6 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the South Coast AQMD
7 hereby finds that highly contagious nature of the Delta Variant of COVID-19 poses an imminent risk to
8 large numbers of persons meeting indoors in a single location; and

9 **BE IT FURTHER RESOLVED**, that the Governing Board of the South Coast AQMD hereby
10 finds that the Governor of California issued a Proclamation of Emergency on March 4, 2020; and

11 **BE IT FURTHER RESOLVED**, that the Governing Board of the South Coast AQMD hereby
12 finds that local officials continue to impose or recommend measures to promote social distancing in the
13 South Coast AQMD's jurisdiction and where the South Coast AQMD's headquarters is located; and

14 **BE IT FURTHER RESOLVED**, that the Governing Board of the South Coast AQMD authorizes
15 and directs staff to take all actions necessary to carry out the intent and purpose of this Resolution including,
16 conducting open and public meetings in accordance with Government Code section 54953(e) and other
17 applicable provisions of the Brown Act; and

18 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption
19 and remain in effect until January 2, 2022, or until such time as the South Coast AQMD Governing
20 Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend
21 the time during which legislative bodies of the South Coast AQMD may continue to teleconference without
22 strict compliance with paragraph 3 of Government Code Section 54953(b).

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26 DATE: _____

27 _____
28 CLERK OF THE BOARDS